

04-0374 C.H. v. Andrus Transportation Issued: 4/27/05

C.H. asks the Utah Labor Commission to review Administrative Law Judge Lima's denial Mr. H.'s motion for partial summary judgment against Andrus Transportation and its workers' compensation insurance carrier. Mr. H.'s motion for partial summary judgment arises out of his claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

In requesting partial summary judgment, Mr. H. alleged the undisputed evidence established that he had suffered a 5% work-related impairment from work-related injuries, and that he was entitled to permanent partial disability compensation for that impairment as a matter of law. Judge Lima denied Mr. H.'s motion. This matter is now scheduled for a plenary evidentiary hearing on May 9, 2005.

DISCUSSION AND CONCLUSION OF LAW

Except under unusual circumstances, the Commission will not engage in interlocutory review of ALJs' orders on preliminary matters such as this. The Commission notes interlocutory review can have the effect of diminishing the ALJ's ability to organize and manage evidentiary hearings, disrupting the adjudicatory process, and delaying the resolution of claims. Consequently, the Commission will entertain interlocutory motions for review only if the potential advantage from deciding the issues presented will outweigh "the interruption of the hearing process and the other costs of piecemeal review." Interlocutory motions for review are appropriate only in unusual cases.

This case is scheduled for a full evidentiary hearing in two weeks. At that time, Mr. H. can present his evidence supporting his claim, and respondents can present any contrary evidence. The ALJ will then be in a position to make her decision based on all the facts. Under these circumstances, the Commission declines to interrupt the usual hearing process.

ORDER

The Commission denies Mr. H.'s motion for review and remands this matter to Judge Lima for further proceedings. It is so ordered.

Dated this 27th day of April, 2005.

R. Lee Ellertson, Commissioner